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Federal Communications Commission
Washington, D.C. 20554

MAY 10 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)
)
Amendment of Section 73.202(b)) MB Docket No. 04-72
FM Table of Allotments,) RM-10857
FM Broadcast Stations.)
(Windsor and Bethel, North Carolina))

To: The Secretary
Attn: Assistant Chief, Audio Division

COMMENTS ON NOTICE OF PROPOSED RULEMAKING

Eure Communications, Inc. ("Eure"), by its attorneys, and pursuant to Sections 1.415, 1.419 and 1.420(i) of the Commission's Rules, hereby files these Comments on the Notice of Proposed Rule Making, *Windsor and Bethel, North Carolina*, DA 04-733, released March 19, 2004 (69 Fed. Reg. 17125, published April 1, 2004) ("NPRM")¹, that proposes to modify the table of allotments (47 C.F.R. §73.202 (b)) to change the allotment of FM Channel 255A from Windsor, North Carolina, to Bethel, North Carolina, with a concurrent modification of the license of WIAM-FM, Windsor, North Carolina, to operate on channel 255C3 at Bethel, North Carolina. In support of the proposal set forth in the NPRM, the following is shown:

Background

WIAM-FM, Channel 255A, Windsor, North Carolina, is licensed to Lifeline Ministries, Inc. ("Lifeline"). Lifeline joined in Eure's petition for rule making.² On December 10, 2003, an application (File No. BALH-20031210ACD) was filed seeking consent to the assignment of license of WIAM-FM from Lifeline to Eure. That application was granted February 12, 2004,

¹ Comments are due no later than May 10, 2004, so Eure's Comments are timely filed.

² Likewise, Lifeline is joining in these Comments.

appeared on public notice (Report No. 45676) on February 20, 2004, and the Commission's action became a "final order." Eure and Lifeline expect to consummate the assignment on May 12, 2004.

Supporting Comments

Eure filed this proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's Rules.³ Under *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1988), the reallocation of Channel 255A from Windsor to Bethel as Channel 255C3 will result in a preferential arrangement of allotments. This determination is based upon the FM Allotment priorities ((1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to given to priorities (2) and (3)).

The NPRM relates that Channel 255C3 can be allotted to Bethel, North Carolina, in compliance with Section 73.207 of the Commission's Rules.⁴ The site specified by Eure for Channel 255C3 at Bethel was short spaced to Channel 255C3, Station WSKK, South Hill, Virginia. The license for Station WSKK, South Hill, was modified in MB Docket 03-47 to specify operation on Channel 270A. *See* 18 FCC Rcd 12840 (MB 2003). Commission records reflect that on December 23, 2003, an application was granted to change the operating channel of Station WSKK from Channel 255C3 to Channel 270A (BPH-20030828APF).

Bethel is located in Northern Pitt County, has been incorporated since 1873, and has a mayor and town council, a police department, volunteer fire department, library, school system,

³ *See Modification of FM and TV Authorizations to Specify a new Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

⁴ The allotment coordinates are NL 35° 48' 25" and WL 77° 22' 44".

post office, zip code, businesses and civic clubs. Bethel has a 2000 population of 1,681. Bethel possesses the requisite social, economic and cultural components that are commonly associated with community status. The proposed changes set forth in the NPRM will provide a first local service for Bethel while Windsor will not be deprived of its sole aural transmission service. Bethel is not located inside any urbanized areas and the principal community contour of a station operating on the proposed allotment at maximum facilities from the proposed reference coordinates would not encompass 50 percent of any urbanized area. The proposed reallocation of Channel 255C3 to Bethel will cover 4,798 square kilometers with 215,225 people which is approximately five times the population currently served by Station WIAM-FM at Windsor. Eure showed in its technical comments supporting the petition for rule making that there is no loss area resulting from the proposed WIAM-FM reallocation receiving fewer than five aural services.

The Commission stated its belief that the proposal warrants consideration since the reallocation would provide Bethel with its first local aural transmission service. Windsor will continue to receive local service from Stations WURB(FM) and WBTE(AM). The Commission's analysis indicates that there will be a net gain of 2,286 square kilometers and 168,195 people, and that the proposed 70 dBu contour will cover 26 percent of the Greenville, North Carolina Urbanized Area while the existing 70 dBu contour does not cover any urbanized area. Accordingly, the Commission found that Eure is not required to make a showing pursuant to *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). The reallocation of Channel 255C3 to Bethel falls under priority 3), first local service, while retention of Channel 255A at Windsor is considered under priority 4), other public service.

Eure continues to support the allotment of Channel 255C3 to Bethel, North Carolina,

Eure requests the Commission make the following changes to the Table of Allotments:

<u>Location</u>	<u>Frequency</u>	<u>Channel</u>	<u>Class of Service</u>
Bethel, North Carolina	255.3		255C3
Windsor, North Carolina	249A, 255A		249A

Conclusion and Continued Expression of Interest

Eure requests the Commission to allot Channel 255C3 to Bethel, North Carolina, and modify the license of WIAM-FM to operate on FM Channel 255C3 at Bethel. If the Commission so modifies the license of WIAM-FM, upon acquisition of WIAM-FM, Eure will timely file an application for minor change construction permit to operate WIAM-FM at Bethel, and upon grant thereof, Eure will construct the new facilities and operate WIAM-FM at Bethel, North Carolina.

Respectfully submitted,

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